

2000-1-5-001

5589

**VOLUNTARY AGREEMENT BETWEEN BIANCA, INC. AND MOUNT  
PLEASANT NEIGHBORHOOD ALLIANCE**

Whereas, Bianca, Inc. t/a Marx Cafe ("Licensee") has applied for transfer of an ABC Class  
CR license for the premises located at 3203 Mount Pleasant Street, N.W., Washington,  
D.C. ("establishment"), Case No. \_\_\_\_\_; and

Whereas, Mount Pleasant Neighborhood Alliance ("MPNA") has filed a protest to the  
issuance of the license: and

Whereas, the parties have discussed the concerns of the neighborhood and have  
reached an understanding relating to the operation of the establishment and cooperative  
efforts of the Licensee and MPNA.

Now, Therefore, in consideration of the agreements set forth herein MPNA agrees  
to withdraw its protest and Licensee agrees to comply with the terms of the agreement as  
set forth hereinafter.

Licensee agrees:

A. That Licensee will comply with all laws and regulations governing the operation of the  
establishment, including laws and regulations governing the Class CR license to which this  
agreement applies, as applied for and approved by the District of Columbia in the name of  
Licensee.

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B. It is understood and agreed that Licensee will permit no live music, cover charges or charges for admission to the establishment, and shall not provide a dancefloor for dancing.

C. That Licensee, its officers and employees, will cooperate with the Advisory Neighborhood Commission I-E ("ANC"), and/or MPNA to address any alleged violation of the laws and regulations referred to in Paragraph A above and in any request that the appropriate enforcement agency investigate an alleged violation.

D. That Licensee will not serve alcoholic beverages after the following hours: 2:00 AM on Sunday through Thursday, and 2:30 AM on Saturday and Sunday. There will be a last call for alcoholic beverages fifteen (15) minutes prior to those hours, at which time the limit on service will be one drink per person. Licensee further agrees that it will keep the kitchen open in the establishment to serve food until 1:00 AM on all days of the week. Licensee and MPNA agree to review this paragraph one year following the effective date of the license to determine whether any changes are appropriate.

E. That Licensee, in cooperation with MPNA, will support community organizations which seek to alleviate alcohol abuse problems, by participation in meetings and programs, and by other assistance as the circumstances may warrant.

F. That Licensee is the true and actual owner of the establishment for which the license is sought; that Licensee intends to carry out the business in the establishment for itself and not as the agent of any other individual, partnership, association or corporation not identified in the application; and that the establishment will be managed by Licensee's principals in person or by a manager approved by the District of Columbia Alcoholic Beverage Control Board.

G. That Licensee will undertake a leadership role in the Mount Pleasant business community in an effort to enlist wider business support for clean-up, responsible alcohol service, support of alcohol abuse assistance organizations, and law enforcement activities, including supporting efforts to supplement current efforts to hire private trash services to keep Mount Pleasant Street clean on a daily basis. This role includes, but is not limited to, active participation by principals of licensee in Police Service Area ("PSA") meetings, and consultation with MPNA and the ANC when such participation and consultation are reasonably requested by such organizations.

H. That Licensee will notify MPNA of any application to transfer the license not less than three (3) days' prior to filing such application with the Alcoholic Beverage Control Board.

I. That Licensee will keep the public space in front of the establishment free of debris and trash, and at the close of each business day Licensee will sweep, remove litter from, and

wash the area extending from the establishment's storefront to the curb. Licensee further agrees that prior to opening for business each day, Licensee will similarly clean the alley in the rear of the establishment.

Licensee further agrees to wash the front of the establishment at least once every two months.

J. Licensee agrees to maintain trash, garbage and recycle material storage facilities in which all containers have lids which are kept securely closed at all times, which containers shall be sufficient to contain all trash, garbage and recycle materials generated by the establishment, and to assure that trash, garbage, and recycle materials are removed at least three times per week, and only during the hours between 9:00 AM and 9:00 PM.

Licensee further agrees to recycle glass and metals, and to remove such recycle materials to appropriate storage containers daily and only between the hours of 9:00 AM and 9:00 PM.

K. That Licensee will prohibit loitering in front of the establishment, and will enforce this policy.

L. That Licensee will post signs in the establishment in both English and Spanish requesting its patrons to maintain quiet when exiting the premises.

M. That Licensee agrees to work cooperatively, with MPNA, to improve the overall environment on Mount Pleasant Street to make it a more pleasant,

safe area for residents, customers and businesses.

N. That Licensee will not knowingly sell or deliver alcoholic beverages to any intoxicated person, or to any person of intemperate habits or to any person who appears to be intoxicated. A person of intemperate habits shall be defined as any person arrested by the Metropolitan Police for any alcohol-related crime three times or more in any one year.

O. That Licensee will not sell or deliver alcoholic beverages to any person or persons under the age of 21, and will prominently display the fact that such sales are prohibited and that patrons are subject to being asked to produce valid proof of age.

P. That Licensee will not sell or deliver alcoholic beverages to anyone accompanying a person who has been denied service if there is an apparent attempt to deliver the alcoholic beverage to the person who has been denied service. Licensee will seat patrons who are not consuming food only in the bar area of the establishment, provided, however that if a group of patrons at any single table is not consuming food, they may continue to be seated at that table so long as at least one member of the group has ordered or consumed food.

Q. That Licensee will not provide "go-cups" to customers. A "go-cup" is defined in Section 709.7 of the ABC regulations as a "drinking utensil provided at no charge or a nominal charge to customers for the purpose of consuming beverages. "

R. That Licensee will assure that all alcoholic beverage serving staff receive appropriate training in the sale, service and handling of alcoholic beverages. Licensee will also assure that the ABC approved manager or approved corporate officer on duty in the establishment has received training of the type offered by TIPS, and is displaying identification as an ABC approved manager.

S. That Licensee will not: serve pitchers or offer any promotion for free or two-for-one alcoholic beverages.

T. That Licensee will not place any alcoholic beverage signage/advertising in any window of the establishment, or permanently obscure the windows of the establishment or hang any banner outside the establishment that is not authorized by permit.

U. That Licensee will not sell, deliver or allow consumption of alcohol before or after legal hours of sale, as modified by this Voluntary Agreement.

V. That Licensee will meet quarterly with a representative of MPNA to discuss issues and solutions to problems concerning the operation of the establishment in the neighborhood, if so requested by MPNA.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year stated below.

FOR LICENSEE:

BIANCA, INC. T/A MARX CAFE

BY: 

TITLE: President

DATE: 1-5-2000

FOR PROTESTANT:

MOUNT PLEASANT  
NEIGHBORHOOD ALLIANCE

BY: 

TITLE: Board Member

DATE: 1/4/2000

**BEFORE  
THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**In the Matter of :**

Bianca, Inc.

t/a Marx Café American Bar & Grill

Application for a Retailer's Class CR License  
(transfer with substantial change)

3203 Mt. Pleasant Street, Northwest  
Washington, D.C.

Case no. 5589-99084P

**Jane Bush, Laurie Collins, on behalf of the Mt. Pleasant Neighborhood Alliance, James N. Holmes, Brian Miller, Laurie Collins, Jean Cochran, Advisory Neighborhood Commission 1E, Suzanne Felder and David B. McDonald, Protestants**

**Andrew J. Kline, Esquire, on behalf of Applicant**

**BEFORE: Roderic L. Woodson, Esquire, Chair  
Vera Abbott, Member  
Ellen Oppenheimer, Esquire, Member  
Audrey E. Thompson, Member**

**ORDER ON WITHDRAWN PROTEST AND VOLUNTARY AGREEMENT**

The matter, having been protested, came before the Board for public hearing on December 8, 1999, in accordance with D.C. Code Section 25-115(c)(5)(1999 Supp.), providing for the protestants to be heard. Bill Mosley, Chair, on behalf of the Advisory Neighborhood Commission 1E, and Laurie Collins, President, on behalf of the Mt. Pleasant Neighborhood Alliance, filed timely protest letters.

The official records of the Board reflect that the parties have now reached agreements that have been reduced to writing, and have been properly executed and filed with the Board. Pursuant to the agreements dated December 6, 1999 and January 5, 2000, the protestants have agreed to withdraw the opposition, provided however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the two (2) Agreements. To the extent that the two (2) agreements are inconsistent, the term more restrictive on the Applicant's license shall apply. These inconsistencies include but are not limited to: (1) the closing hours of operation which shall be 1:30 a.m., Sunday through Thursday,



Bianca, Inc.  
t/a Marx Café American  
Bar & Grill  
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and 2:30 a.m., Saturday and Sunday; and (2) live music which shall not be permitted at the establishment.

Accordingly, it is this 19<sup>th</sup> day of January 2000, **ORDERED** that:

1. The opposition of Bill Mosley, Chair, on behalf of the Advisory Neighborhood Commission 1E, and Laurie Collins, President, on behalf of the Mt. Pleasant Neighborhood Alliance, be, and the same hereby, is **WITHDRAWN**;

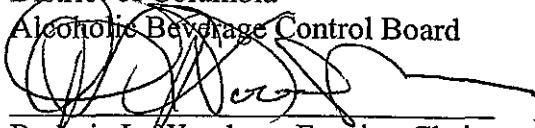
2. The application of Bianca, Inc. t/a Marx Café American Bar & Grill for a retailer's class CR license (transfer of ownership with substantial change, located at 3203 Mt. Pleasant Street, N.W., Washington, D.C., be, and the same hereby, is **GRANTED**;

3. The above-referenced agreement between the parties, be, and the same hereby, is **INCORPORATED** as part of this **ORDER**; and,

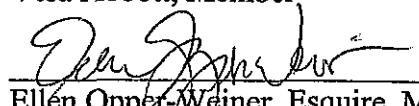
4. To the extent that the two (2) agreements are inconsistent, the term more restrictive on the Applicant's license shall apply. These inconsistencies include but are not limited to: (1) the closing hours of operation which shall be 1:30 a.m., Sunday through Thursday, and 2:30 a.m., Saturday and Sunday; and (2) live music which shall not be permitted at the establishment.

5. Copies of this Order shall be sent to the Protestants and the Attorney for the Applicant.

District of Columbia  
Alcoholic Beverage Control Board

  
Roderic L. Woodson, Esquire, Chair

  
Vera Abbott, Member

  
Ellen Oppenheimer, Esquire, Member

  
Audrey E. Thompson, Member

#5589

## VOLUNTARY AGREEMENT

THIS AGREEMENT made this 6<sup>th</sup> day of December, 1999, by and between BIANCA, INC. t/a MARX CAFE ("Applicant") and ADVISORY NEIGHBORHOOD COMMISSION 1E ("Protestant").

### RECITALS

WHEREAS, Applicant has applied to the Alcoholic Beverage Control Board of the District of Columbia (the "Board") for transfer of a retailer's license class "CR" for premises located at 3203 Mount Pleasant Street, NW, Washington, D.C. (the "Premises");

WHEREAS, Applicant has applied to the Board for approval of changes to the business operation including the addition of entertainment and changes to the hours of operation;

WHEREAS, the Board has determined that the changes proposed by Applicant are substantial within the meaning of 23 DCMR §505 requiring the Applicant to demonstrate to the Board the appropriateness of the changes proposed;

WHEREAS, Protestant has protested the changes proposed by Applicant and the transfer of the license; and

WHEREAS, the parties have agreed to enter into this Agreement and to request the Board to approve of the changes requested by Applicant as modified hereinafter and to approve of the transfer of the license, conditioned upon Applicant's compliance with the terms of this written Agreement.

NOW, THEREFORE, in consideration of the recitals set forth above, the mutual covenants and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The recitals set forth above are incorporated herein by reference.
2. Alcohol shall not be served after the Board's regulated hours, and Applicant shall stop selling alcohol at 1:30 a.m., Sunday through Thursday, and 2:30 a.m. on Friday and Saturday. Applicant shall keep its kitchen facility open until at least one hour before the sale of alcohol is stopped. Nothing herein shall be construed to prohibit Applicant from seeking additional hours by requesting the Board to approve a subsequent substantial change.
3. Applicant may offer entertainment in the form of recorded music during all hours of operation. Live music shall be limited to daylight hours on Sunday only. In addition, Applicant may offer live music on special occasions no more than twelve (12) times per

year. Applicant shall notify ANC 1E at least seven (7) days prior to the special occasion advising the nature of the occasion, the entertainment to be provided, the date and the hours. Applicant shall not provide a dance floor for dancing by its patrons nor shall Applicant offer any other form of live entertainment except as specifically provided herein.

4. Applicant shall not install or use any exterior sound amplification equipment of any kind. Noise from music or any other form of entertainment shall not be audible in any residence located adjacent to the Premises.
5. Applicant shall comply with all laws and regulations governing the operation of the establishment at 3203 Mt. Pleasant Street, NW, Washington, D.C., including laws and regulations governing the Class CR (restaurant) license to which this Agreement applies, as applied for and approved by the District of Columbia.
6. Applicant shall cooperate with Advisory Neighborhood Commission 1E to address any alleged violation of the laws and regulations referred to in Paragraph 5 above and in any request that the appropriate enforcement agency investigate any alleged violation. If so requested by a protestant party to this Agreement, Applicant agrees to meet quarterly with a representative of the Advisory Neighborhood Commission 1E to discuss issues and solutions to problems concerning the operation of Applicant's business in the neighborhood.
7. Applicant shall, in cooperation with ANC 1E, support community organizations which seek to alleviate alcohol abuse problems by participation in meetings and programs, and other assistance as the circumstances may warrant.
8. Applicant shall undertake a leadership role in the Mount Pleasant business community in an effort to enlist wider business support for clean-up responsible alcohol service, support of alcohol abuse assistance organizations, and law enforcement activities.
9. Applicant shall not sell or deliver alcoholic beverages to any intoxicated person, or to any person of notoriously intemperate habits or to any person who appears to be intoxicated.
10. Applicant shall not sell or deliver alcoholic beverages to a person or any persons under the age of 21.
11. Applicant shall take all precautions to avoid the sale and delivery of any alcoholic beverages to anyone accompanying a person who has been denied service if there is an apparent attempt to deliver the alcoholic beverages to the person who has been denied services.
12. Applicant shall not provide "go-cups" to customers. A "go-cup" is defined in Section 709.7 of the ABC regulations as a "drinking utensil provided at no charge or nominal

charge to customers for the purpose of concerning beverages".

13. Applicant shall not sell, deliver or allow consumption of alcohol before or after legal hours of sale.
14. Applicant shall keep the public space in front of the Premises free of debris and trash.
15. Applicant shall display prominently at all exits, a sign, in both English and Spanish, requesting patrons to maintain quiet while departing the Premises.
16. Applicant shall post on the front of the Premises, signs prohibiting loitering and solicitation. Applicant shall use its best efforts to enforce the loitering prohibition.
17. Applicant has removed the pay phone which was located in front of the Premises and shall use its best efforts to obtain removal of the remaining pay phone located near the entrance to the Premises.
18. Protestant hereby withdraws its protest and joins with Applicant in requesting the Board to accept this Agreement as a condition to the approval of the transfer of the alcoholic beverage license.
19. Protestant hereby expresses its support for the application and its desire that the Board give "great weight" to its desire that restaurants featuring full meal service, such as Applicant's business, be encouraged to locate and open in the Mount Pleasant neighborhood.
20. The provisions of this Agreement shall become a part of the conditions of the license and shall remain in full force upon renewal or transfer of the license. The Applicant's material failure to implement the measures called for in this Agreement shall be just cause for the Board to suspend or revoke Applicant's license after notice and hearing.
21. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the

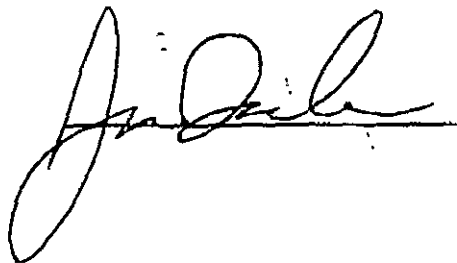
same instrument.

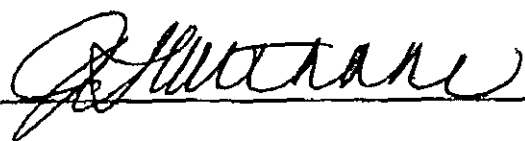
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

WITNESS:

APPLICANT:

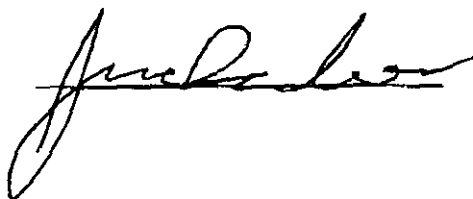
BIANCA, INC. T/A MARX CAFE



By: 

PROTESTANT:

ADVISORY NEIGHBORHOOD COMMISSION  
1E



By: 